

AG Review Leaves Large Field of Potential Ballot Questions



TCI, Worker Benefits, Voter ID Questions Certified

Colin A. Young 9/1/21 3:03 PM

SEPT. 1, 2021.....The attorney general has cleared

16 initiative petitions to continue advancing towards the 2022 statewide ballot, including potential ballot questions related to voter identification, the status and benefits of drivers for app-based transportation companies, reviving happy hour, legalizing the sale of consumer fireworks, and the state's participation in a regional carbon emission reduction program.

The [rulings](#) from Attorney General Maura Healey -- including the certification of a proposed constitutional amendment that could go before voters in 2024 to authorize excuse-free absentee voting -- winnowed the field of possible ballot questions from 28 proposed initiative petitions and two constitutional amendments filed with her office last month.

The question that appears poised to be at the center of an expensive and hotly-contested campaign -- the [proposal](#) to declare all app-based drivers to be independent contractors and grant them access to some minimum pay guarantees, sick leave and other benefits -- was among those given the green light to proceed. Healey certified two [versions](#) of the Massachusetts initiative filed by a group funded by Uber, Lyft, DoorDash and Instacart. The effort comes on the heels of a similar and successful measure in California.

"We believe that Massachusetts voters will support what drivers are asking for: to remain independent contractors, in control of our own schedules, while gaining new benefits," Brittney Woods of Boston said in a release from the Massachusetts Coalition for Independent Work. "That flexibility and control is why we drive."

Opponents of the app-based driver petition, led by the Coalition to Protect Workers' Rights, slammed the potential ballot question as a "racially discriminatory, anti-worker, anti-consumer" copy of the California proposition.

"The Uber/Big Tech ballot measures cheats workers, shields these massive companies from liability to customers, and makes Massachusetts taxpayers pick up the tab," coalition Director Mike Firestone said. "Massachusetts voters and app-based workers just want these multi-billion dollar companies to pay their taxes and follow the law. We believe their California copycat bill is unconstitutional and will carefully consider our litigation options..."

For any of the questions, actually securing a spot on the 2022 ballot is still a ways off. The proposals that Healey's office certified Wednesday will be filed with Secretary of State William Galvin's office and the activists, campaigns and interests behind each measure can then begin to collect the 80,239 voter signatures that must be filed with local election officials in November and then with Galvin by Dec. 1. Opponents can also ask the Supreme Judicial Court to review Healey's certification rulings.

The Legislature will also have a chance to act on the issues addressed by the proposed questions themselves. If the Legislature chooses not to act before May 4, 2022, petition supporters will have to collect another 13,374 voter signatures by July 6, 2022 to lock in a spot on the November 2022 ballot.

Two alcohol-related petitions -- [one](#) for a law that would effectively reverse the state's long-standing ban on discounted and promotional alcoholic drinks and [another](#) to make a series of changes to the state's retail alcohol laws -- also cleared constitutional muster Wednesday.

Since 1984, Massachusetts has maintained a ban on happy hour specials and Beacon Hill has rejected previous efforts to revive happy hour, including in 2011 as part of the casino bill. But the issue has gained new life as restaurants and bars adjust now that the government-imposed restrictions that shaped business for much of 2020 and into 2021 are largely gone.

"I think government should police us in the least restrictive way possible, and I think you can only legislate behavior so far before it becomes onerous on those who are behaving," lead sponsor Nick Silveira [told the News Service](#) about his happy hour petition last month. "Public sentiment and public discouragement and punishment surrounding drunk driving in particular, which led to the ban in the first place, has swung. I think people have more negative opinions of those who drive drunk, and on top of ride-sharing services in particular, I think it's the perfect storm for us to revisit this."

The Massachusetts Package Store Association, which filed what it calls an "[olive branch](#)" to the food and convenience stores that previously sought to uncork an unlimited number of beer and wine licenses, celebrated that Healey gave the OK to its proposal to tweak retail alcohol rules by decreasing the number of full liquor licenses allowed by an individual or company, progressively increasing the number of beer and wine licenses allowed, prohibiting self-checkout for alcohol and allowing alcohol retailers to rely upon out-of-state licenses as sufficient ID.

"We sincerely hope that the entire alcohol beverages industry can get behind and support the 21st Century Alcohol Retail Reform initiative petition," Ryan Maloney, owner of Julio's Liquors in Westborough and president of the MPSA, said. "This effort promoted by local retailers ends controversy, supports public safety while giving the consumer expanded options. This ballot initiative is a true compromise that results in a win â€“ win."

The attorney general certified as ballot-eligible under the constitution a petition filed by Republican Rep. David DeCoste of Norwell and supported by Republican gubernatorial candidate Geoff Diehl seeking to [undermine](#) Massachusetts' participation in the Transportation Climate Initiative Program, a regional cap-and-trade program that Gov. Charlie Baker has pushed for years.

Healey's [summary](#) of the proposal said the law proposed would "prohibit Massachusetts from imposing any tax, fee, revenue-generating measure, or market-based compliance measure if it would reduce or restrict the supply of gasoline, diesel fuel, special fuels, or other motor fuels available to meet consumer demand." TCI would put a declining cap on emissions from on-road diesel and motor gasoline, which opponents say translates to a reduction in the number of gallons of fuel that can be sold to consumers.

"A bi-partisan group of citizens took the first step to bring TCI before the voters of Massachusetts in 2022. The people that will feel the most pressure of the price increases and shortages that will result from TCI deserve a voice in this process," Paul Craney of the Mass. Fiscal Alliance, a longtime TCI opponent, said Wednesday. "Drivers should be free to make their own decisions and TCI should never restrict the amount of gasoline Massachusetts consumers can use."

A slew of advocacy groups, including the Environmental League of Massachusetts, Transportation for Mass. and others, said the potential TCI ballot question "threatens our environment, our health, and our transportation."

"This poorly drafted, overly broad petition could threaten any policy or revenue source designed to eliminate pollution from transportation. That includes both existing revenue sources and potential future policies which benefit families and communities most burdened by transportation pollution," the TCI supporters said. "We are confident that if this petition makes it onto the ballot, Massachusetts voters will join Governor Baker, other elected officials, civic leaders and advocates in opposing this ballot question."

Healey on Wednesday also certified a [petition](#) for a law that would require voters to present government-issued photo identification before receiving a ballot at polling places. Anyone who does not produce an ID, the proposal says, could "choose to execute an affidavit attesting to his or her identity and residence" to get a ballot.

Though Healey certified that petition, which was filed by former U.S. Sen. Scott Brown aide and Massachusetts House candidate Tatyana Semyrog of Duxbury, the attorney general declined three other initiative petitions related to voter ID because those proposals "would significantly interfere with the freedom of elections by preventing otherwise-qualified persons from voting," an attorney wrote in the [declination letter](#).

The attorney general's office also rejected the initiative petition filed by Bernadette Lyons, wife of MassGOP Chairman Jim Lyons, that sought to require "all reasonable steps, in keeping with good medical practice shall be taken to preserve the life of the child born alive." The AG's office said the one-sentence [proposal](#) was not in the proper form for submission to the people, as required by Article 48 of the Constitution.

"Here, the proposed law contains several highly ambiguous provisions, which make it impossible for us to determine, and inform potential voters of, the meaning and effect of the proposed law," Anne Sternman, deputy chief of Healey's government division, [wrote](#). "Specifically, the proposed law does not define 'a child born alive' or what is required to 'preserve the life of a child born alive,' nor does it specify what 'reasonable steps' must be taken or who 'shall' take them."

Two of the [three initiative petitions](#) filed by Massachusetts Nurses Association Executive Director Julie Pinkham were certified by the attorney general's office. One would ban hospital CEOs from receiving compensation from or serving on the board of a company that develops, manufactures or sells medical devices or pharmaceutical drugs. The other would "impose financial penalties on certain hospitals and create a fund to expand Medicaid reimbursement and maintain certain essential health services," according to Healey's summary.

An [effort](#) to make the sale, possession and use of consumer fireworks legal in Massachusetts by 2024 was also cleared Wednesday to continue its path to the 2022 ballot.

Healey's office said the decisions announced Wednesday were based "strictly" on its constitutional review under Article 48 and "do not represent the office's support or opposition to the merits of the petitions."

"The Massachusetts Constitution requires that proposed initiatives be in the proper form for submission to voters, not be substantially the same as any measure on the ballot in either of the two preceding statewide elections, contain only subjects that are related to each other or mutually dependent, and not involve a narrow set of subjects that are specifically excluded from

the ballot initiative process by the Massachusetts Constitution," the AG's office said. "For example, a petition cannot be approved if it relates to religion, religious practices or religious institutions; the powers, creation or abolition of the courts; the appointment, compensation or tenure of judges; a specific appropriation of funds from the state treasury; or if it infringes on other protected constitutional rights, such as trial by jury, freedom of the press and freedom of speech."

-END-

09/01/2021